

**THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

PAUL DON POWELL

Defendant.

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CIVIL ACTION NO. 4:09-CR-212-RAS-
DDB

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on December 15, 2015, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Kevin McClendon.

On September 10, 2010, Defendant was sentenced by the Honorable Richard A. Schell to sixty (60) months on Counts 1-20, seventy-one (71) months on Count 21 ordered to run concurrently, followed by a concurrent three (3) year term of supervised release for the offenses of Possession, Theft, or Receipt of Stolen Mail Matter and Access Device Fraud. On June 10, 2015, Defendant completed his period of imprisonment and began service of his supervised term.

On August 19, 2015, the U.S. Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision [Dkt. 117]. The Petition asserted that Defendant violated the following mandatory condition: (1) the Defendant shall not commit another federal, state, or local crime.

The Petition alleges that Defendant committed the following acts: (1) On July 27, 2015, the defendant was arrested by the Dallas County Sheriff's Department for the felony offenses of Evade Arrest Detention with Vehicle, and Unauthorized Use of a Motor Vehicle. According to the arrest report, the defendant was observed operating a motorcycle which did not have a rear license plate. The officer initiated a traffic stop and engaged the emergency lights on his marked vehicle; however, the defendant accelerated and entered US-Highway 80 in Sunnyvale, TX, and continued to accelerate ignoring the lights and sirens of the squad car. The defendant continued to drive at a high rate of speed, and made multiple unsafe lane changes without using his turn signal. The defendant entered into Kaufman County, at which point the Kaufman County Sheriff's Department and DPS troopers were called to assist. The defendant subsequently lost control of the motorcycle after taking an exit and was thrown from the motorcycle after driving through a field. He then reportedly attempted to flee on foot, but was apprehended by a DPS Trooper and placed under arrest. As of this writing, the defendant is in custody of the Dallas County Sheriff's Department in lieu of \$100,000 bail on each case. No court date information is available at this time.

Prior to the Government putting on its case, Defendant entered a plea of true to allegation one (1) specifically that Defendant shall not commit another federal, state, or local crime. Having considered the Petition and the plea of true to the allegation, the Court finds that Defendant did violate his conditions of supervised release.

Defendant waived his right to allocate before the District Judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty-one (21) months, with no term of supervised release to follow.

The Court also recommends that Defendant be housed in the Bureau of Prisons Ft. Worth facility, if appropriate.

SIGNED this 15th day of December, 2015.

A handwritten signature in black ink, appearing to read 'C.A. Nowak', written over a horizontal line.

Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE